

CHAPTER 12**INTERDISTRICT PUBLIC SCHOOL CHOICE****Authority**

N.J.S.A. 18A:7F-3 and 18A-36B-1 et seq.

Source and Effective Date

R.1999 d.343, effective October 4, 1999.
See: 31 N.J.R. 1664(a), 31 N.J.R. 2918(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 12, Interdistrict-Public School Choice, expires on April 2, 2005. See: 36 N.J.R.2593(a).

Chapter Historical Note

Chapter 12, Interdistrict Public School Choice, was adopted as R.1999 d.343, effective October 4, 1999. See: Source and Effective Date.

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SUBCHAPTER 1. GENERAL PROVISIONS**6A:12-1.1 Purpose**

The purpose of this chapter is to establish the rules for an interdistrict public school choice program (choice program) in the Department of Education (Department) as provided for in N.J.S.A. 18A:36B-1 et seq. The choice program is necessary to provide greater choice to parents and students in selecting a school which best meets the needs of the student and thus improves educational opportunities for New Jersey citizens. The choice program has the potential to improve the degree to which the education system is responsive to parents and students. It can also improve education and enhance efficiency by allowing a redistribution of students where some districts are overcrowded and others are under-enrolled. Finally, it can improve quality by creating a healthy competition among school districts.

Amended by R.2000 d.477, effective December 4, 2000.
See: 32 N.J.R. 3201(a), 32 N.J.R. 4255(a).

Amended N.J.S.A. citation.

6A:12-1.2 Scope

(a) Any school district in the State will be eligible to become a choice district whereby students outside of the district attend an educational program in the choice district free of charge. However, for the first year following the enactment of this chapter, there shall be in operation no more than 10 choice districts Statewide and no more than one per county; for the second year, no more than 15 choice districts Statewide and no more than one per county; and for the third, fourth and fifth years, no more than 21 choice districts Statewide and no more than one per county.

(b) District boards of education may choose to participate in the choice program as choice districts by receiving choice students pursuant to this chapter. District boards of education shall not prevent or discourage students from participating in the choice program.

(c) District boards of education may not maintain at the same time both a tuition program pursuant to N.J.S.A. 18A:38-3 and a choice program.

(d) District boards of education currently in a sending/receiving relationship are eligible to participate in the choice program unless otherwise legally prohibited.

Amended by R.2000 d.477, effective December 4, 2000.
See: 32 N.J.R. 3201(a), 32 N.J.R. 4255(a).

In (b), added "as choice districts" preceding "by receiving choice students" in the first sentence; and deleted (e) through (i).

6A:12-1.3 Definitions

The following words and terms, as used in this chapter, shall have the following meaning, unless the context clearly indicates otherwise.

“Annual maximum statutorily established amount” means the amount established for transportation of non-public school students in accordance with N.J.S.A. 18A:39-1.

“Choice district” means a district board of education which chooses to participate in the choice program by receiving choice students and applies for and receives Commissioner approval of the choice program application.

“Choice program” means the Interdistrict Public School Choice Program authorized in N.J.S.A. 18A:36B-1 et seq.

“Choice student” means a student who applies for acceptance into a choice district.

“Sending district” means the choice student’s district of residence.

Amended by R.2000 d.477, effective December 4, 2000.
See: 32 N.J.R. 3201(a), 32 N.J.R. 4255(a).

In “Choice program”, amended N.J.S.A. citation and in “Sending district” inserted “choice” preceding “student’s”.

SUBCHAPTER 2. CHOICE PROGRAM ELIGIBILITY CRITERIA

6A:12-2.1 Eligibility criteria for district boards of education

A district board of education of a school district established pursuant to Chapter 8 or Chapter 13 of Title 18A of the New Jersey Statutes is eligible to participate in the choice program if it has classroom space available, completes an application form provided by the Department pursuant to this chapter, and receives approval from the Commissioner to participate.

Amended by R.2000 d.477, effective December 4, 2000.
See: 32 N.J.R. 3201(a), 32 N.J.R. 4255(a).

Inserted “from the Commissioner” preceding “to participate”.

6A:12-2.2 Eligibility criteria for students

(a) To be eligible to participate in the program, a student shall be enrolled at the time of application in grades K through nine in a school of the sending district and have attended school in the sending district for at least one full year immediately preceding enrollment in the choice district.

(b) Students residing out of State may not participate in the choice program.

Amended by R.2000 d.477, effective December 4, 2000.
See: 32 N.J.R. 3201(a), 32 N.J.R. 4255(a).

Designated existing paragraph as (a) and added (b).

SUBCHAPTER 3. CHOICE STUDENT ADMISSIONS

Authority

N.J.S.A. 18A:7F-3 and 18A:36B-1

Source and Effective Date

R.2000 d.477, effective December 4, 2000.
See: 32 N.J.R. 3201(a), 32 N.J.R. 4255(a).

Subchapter Historical Note

Subchapter 3, Choice Student Admissions, was adopted as new rules, and Subchapter 3, Application Procedures, was recodified as Subchapter 4, Application Procedures, Subchapter 5, Choice Student Post Enrollment Policies, and Subchapter 6, Appeals, by R.2000 d.477, effective December 4, 2000. See: Source and Effective Date.

6A:12-3.1 Sending district procedures

(a) Upon adoption of a resolution, the district board of education of a sending district may limit the number of its students participating in the choice program.

1. The district board of education of a sending district may limit the total number of its students participating in the choice program to:

- i. Two percent of the number of students per grade per year in the sending district limited by any resolution adopted pursuant to (b)1ii below; and/or
- ii. Seven percent of the total number of students enrolled in the sending district.

2. The school board of a sending district may adopt a resolution to exceed the enrollment restriction percentages of (a)1i and ii above to a maximum of 10 percent of the number of students per grade per year, limited by any resolution adopted pursuant to this paragraph, and a maximum of 15 percent of the total number of students enrolled in the sending district, provided that the Commissioner determines that the resolution:

- i. Is in the best interest of the district’s students;
- ii. Will not adversely affect the district’s programs, services, operations, or fiscal conditions; and
- iii. Will not adversely affect or limit the diversity of the remainder of the student population in the district that do not participate in the choice program.

3. The district board of education of a sending district shall not compound enrollment restriction percentages adopted by any resolution pursuant to (a)1 and 2 above from year to year and shall base the enrollment counts for the year preceding on the sending district’s initial year of participation in the choice program.

i. In any year of the program in which there is an increase in enrollment in the sending district, the percentage enrollment restriction may be applied to the increase and the result added to the preceding year's count of students eligible to attend a choice district. If there is a decrease in enrollment in the sending district at any time during the duration of this program, the number of students eligible to attend a choice district shall be the number of students enrolled in the choice

program in the initial year of the district's participation in the program, provided that a student attending a choice district school shall be entitled to remain enrolled in that school until graduation.

ii. The enrollment counts in this paragraph shall be the enrollment counts as reported on the October Application for State School Aid for the year preceding the initial school year in which an enrollment restriction resolution is applicable.

4. A district board of education of a sending district may adopt a resolution to impose a limit on the number of its students participating in the choice program pursuant to this subsection. When the student notices of intention to participate in the choice program exceed that limit the sending district shall:

- i. Hold a lottery to determine the selection of students for participation in the choice program; and
- ii. Develop a waiting list based on the lottery to be used in accordance with N.J.A.C. 6A:12-4.3(c)4.

(b) The sending district's board of education may restrict enrollment of a student on the basis of an exceptional circumstance that would affect the sending district's instructional program upon the adoption of a resolution detailing the reason for the restriction. The restriction shall be subject to the approval of the Commissioner.

6A:12-3.2 Choice district procedures

(a) Choice districts shall admit choice students on a space available basis.

1. A choice district may limit admissions to a particular grade level or to areas of concentration of the school, such as, mathematics, science, or the arts.

2. A choice district may establish reasonable criteria to evaluate prospective choice students, including the student's interest in the program offered by the choice district, which shall be outlined in the district board of education's application for choice program participation.

3. A choice district may give preference for enrollment to siblings of enrolled students.

4. Any student enrolled on a tuition basis in a district prior to the establishment of the choice program in that district shall be entitled to remain in that choice district as a choice student.

5. When a choice district receives more applications than there are spaces available, the choice district shall hold a lottery to determine the selection of students.

i. The choice district shall develop a waiting list based on the lottery to be used in accordance with N.J.A.C. 6A:12-4.3(g).

ii. A choice district shall give preference for enrollment in both application cycles to those students on the waiting list in accordance with N.J.A.C. 6A:12-4.3(e)1 and (g).

(b) No choice student shall be discriminated against on the basis of intellectual or athletic ability, measures of achievement or aptitude, status as a student with disabilities, proficiency in the English language, or any other basis prohibited by State or Federal law.

(c) A choice district shall not prohibit the enrollment of a student based upon a determination that the additional cost

of educating the student would exceed the amount of additional State aid received as a result of the student's enrollment. A choice district may reject the application for enrollment of a student who has been classified as eligible for special education services pursuant to chapter 46 of Title 18A of the New Jersey Statutes if that student's individualized education program could not be implemented in the district, or if the enrollment of that student would require the district to fundamentally alter the nature of its educational program, or would create an undue financial or administrative burden on the district.

SUBCHAPTER 4. APPLICATION PROCEDURES

Subchapter Historical Note

Subchapter 4, Application Procedures, was recodified from Subchapter 3, Application Procedures, and Subchapter 4, Administrative Responsibilities of Choice Districts, was recodified as Subchapter 7, Administrative Responsibilities of Choice Districts, by R.2000 d.477, effective December 4, 2000. See: 32 N.J.R. 3201(a), 32 N.J.R. 4255(a).

6A:12-4.1 Choice program application procedures for a district board of education

(a) An eligible district board of education which chooses to participate in the choice program shall submit a completed application on a form provided by the Department no later than April 30 in the year prior to the school year in which the choice program will be implemented which shall include, but not be limited to, the following information:

1. Identification of the number of available openings to choice students by program, grade level and school building;

2. Identification of those districts likely to participate as sending districts in the choice program;

3. A description of the student selection process and any criteria required for admission which includes at least the following information:

i. A mechanism for screening out choice student applicants during the application process who wish to attend for extracurricular, athletic or social reasons;

ii. A mechanism to ensure that no choice student's learning ability is inhibited due to an excessive amount of time in transit; and

iii. A mechanism to ensure that choice students accepted are selected through a random unbiased process;

4. Establishment of a regionwide public information program and a parent information center as set forth in N.J.A.C. 6A:12-7.1(b) and (d);

5. A description of the choice district, its schools, its programs, its policies and procedures; and

6. An analysis of the potential impact of the program on student population diversity in the likely participating districts and a plan for maintaining diversity in the likely participating districts, which plan shall not be used to supersede a court-ordered or administrative court-ordered desegregation plan.

(b) The Commissioner shall notify applicants regarding approval or denial of program participation no later than July 30 in accordance with (a) above. The notification to applicants who are not approved shall include reasons for the denial.

(c) The Commissioner shall annually prepare a list of approved choice districts and make the list available to the public.

(d) The Commissioner may take appropriate action, consistent with State and Federal law, to provide that student population diversity in all districts participating in a choice district program is maintained. Student population diversity shall include, but not be limited to, the ethnic, racial, economic, and geographic diversity of a district's student population. The action may include, but need not be limited to:

1. Directing a choice district to take appropriate steps to successfully implement the district's plan for maintaining student population diversity;
2. Restricting the number of choice students from a sending district or the authority of a choice district to accept choice students in the future; and
3. Revoking the approval of the choice district. Any choice student who is attending a designated school in a choice district at the time of the Commissioner's revocation of approval shall be entitled to continue to be enrolled in that school until graduation.

Amended by R.2000 d.477, effective December 4, 2000.
See: 32 N.J.R. 3201(a), 32 N.J.R. 4255(a).
Rewrote the section.

6A:12-4.2 Criteria to guide the Commissioner's approval of choice program applications

(a) In the evaluation of the application, the Commissioner shall take into account the following in selecting approved choice districts:

1. The quality and variety of programs offered for choice student(s) participation;
2. The potential effectiveness of the student selection mechanisms and of the admissions criteria established in the application;
3. The status of the applicant district(s) in Statewide monitoring and assessment;
4. The applicant's previous experience with choice programs;

5. The budgetary ramifications for the applicant district(s);

6. The fiscal ramifications of approval on any district(s) currently in a sending/receiving relationship;

7. The impact on student population diversity in the district; and

8. The degree to which the program will promote or reduce educational quality in the choice district and the sending districts.

Amended by R.2000 d.477, effective December 4, 2000.
See: 32 N.J.R. 3201(a), 32 N.J.R. 4255(a).

In (a), substituted "quality and variety" for "type and quality" in 1, rewrote 2 and 8, and inserted "in the district" in 7.

6A:12-4.3 Choice student application procedures

(a) The Commissioner shall establish two student application cycles to ensure that parents have adequate opportunities to participate in the choice program. The first cycle shall be held in the fall. The second cycle shall be held in the spring when there are open seats in the choice district not filled during the first cycle.

(b) In the first application cycle, the student's parent or legal guardian shall provide a written notice to the sending district of the student's intention to participate in the choice program no later than November 1 for initial enrollment beginning the following school year in a choice district. In the second application cycle, the written notice shall be provided no later than the following March 1.

(c) In the first application cycle, the sending district board of education shall provide written notification to the student's parent or legal guardian no later than November 25 that the student may participate in the choice program or that the student may not participate in the choice program. In the second application cycle, the written notice shall be provided no later than the following March 25.

1. Prior to any lottery that may be held according to N.J.A.C. 6A:12-3.1(a)4i, and prior to the provision of any notice required under (c) above, the sending district shall verify that the student is enrolled in the sending district and was reported on the Application for State School Aid in October.

2. The notice shall state the reason that the student may not participate in the choice program, if any, and shall, where appropriate, provide information regarding the waiting list established pursuant to N.J.A.C. 6A:12-3.1(a)4ii.

3. When the district board of education of a sending district adopts a resolution to impose a limit on the number of its students participating in the choice program, the sending district shall determine, in the second application cycle, when the limit has been reached based on the notices of intent to enroll that it receives from a choice district pursuant to (h) below.

4. In the event that the district board of education of a sending district holds a lottery as required in N.J.A.C. 6A:12-3.1(a)4, the notice for the second application cycle required in (c) above shall be provided to the parent or legal guardian of the next student(s) on the waiting list developed pursuant to N.J.A.C. 6A:12-3.1(a)4ii.

5. In the event that a sending district fails to provide timely notification in compliance with (c) above, the student's parent or legal guardian may submit an application to the choice district notwithstanding the requirement in (d)2 below.

(d) In the first application cycle, the student's parent or legal guardian must submit an application to the choice district no later than December 5 for initial enrollment beginning the following school year. In the second application cycle, the application shall be submitted no later than the following April 5.

1. The parent or legal guardian shall identify the student, the student's district of residence, the grade level and school the student is currently attending in the district of residence, and the program, grade level and school building of the choice district for which the student is applying.

2. The student's parent or legal guardian must also submit with the application the written notification from the sending district that the student may participate in the choice program pursuant to (c) above, except in the event that a sending district fails to provide timely notification as provided for in (c)5 above.

(e) In the first application cycle, the choice district shall notify the parent or legal guardian in writing no later than January 5 whether the application has been accepted or rejected. In the second application cycle, the written notice shall be provided no later than the following May 5.

1. If an application is rejected, the choice district shall state the reason for rejection in the notification and shall provide information regarding the waiting list required pursuant to N.J.A.C. 6A:12-3.2(a)5ii.

2. In the event that the district board of education of a choice district holds a lottery as required in N.J.A.C. 6A:12-3.2(a)5i, the notice for the second application cycle required in (e) above shall be provided first to the parent or legal guardian of the next student(s) on the waiting list developed pursuant to N.J.A.C. 6A:12-3.2(a)5ii.

(f) In the first application cycle, the parent or legal guardian shall provide written notification to the choice district no later than January 15 whether the choice student intends to enroll in the choice district. In the second application cycle, the written notice of intent to enroll shall be provided no later than the following May 15.

1. Notice of intent to enroll in the choice district obligates the choice student to attend the choice district

during the following school year, unless the sending district and the choice district agree in writing to allow the choice student to transfer back to the sending district.

2. Notice of intent to enroll is not binding if the choice student's parents or legal guardians change residence to another district.

(g) During the first application cycle, in the event that a choice district does not receive enough notices of intent to enroll to fill all available spaces, the choice district shall provide a written notice, no later than January 25, to the parent or legal guardian of the next student(s) on the waiting list established pursuant to N.J.A.C. 6A:12-3.2(a)5ii that the student(s) is accepted. In the second application cycle, the notice shall be provided no later than the following May 25.

1. In the first application cycle, the parent or legal guardian shall provide written notification to the choice district no later than February 4 whether the choice student intends to enroll in the choice district. In the second application cycle, the written notice of intent to enroll shall be provided no later than June 4.

(h) The choice district shall provide written notification to the sending district's board of education within 10 days of receipt of a notice of intent to enroll from a choice student resident in that district.

Amended by R.2000 d.477, effective December 4, 2000.
See: 32 N.J.R. 3201(a), 32 N.J.R. 4255(a).
Rewrote the section.

SUBCHAPTER 5. (RESERVED)

Subchapter Historical Note

Subchapter 5, Choice Student Post Enrollment Policies, was recodified from N.J.A.C. 6A:12-3.3(g) and (h), and Subchapter 5, Transportation, was recodified as Subchapter 8, Transportation, by R.2000 d.477, effective December 4, 2000. See: 32 N.J.R. 3201(a), 32 N.J.R. 4255(a).

Subchapter 5, Choice Student Post Enrollment Policies, was repealed by R.2001 d.17, effective January 2, 2001. See: 32 N.J.R. 3695(a), 33 N.J.R. 31(a).

SUBCHAPTER 6. APPEALS

Subchapter Historical Note

Subchapter 6, Appeals, was recodified from N.J.A.C. 6A:12-3.4, and Subchapter 6, Funding, was recodified as Subchapter 9, Funding, by R.2000 d.477, effective December 4, 2000. See: 32 N.J.R. 3201(a), 32 N.J.R. 4255(a).

6A:12-6.1 Appeals from Commissioner determinations

(a) An appeal of any determination by the Commissioner not to grant an application for participation in the choice program may be filed by an eligible choice district applicant with the State Board of Education according to N.J.A.C. 6:2.

1. Within 30 days of receipt of the notice of appeal, the Commissioner shall transmit all documents, correspondence and evaluations which constitute the record to the State Board of Education.

Amended by R.2000 d.477, effective December 4, 2000.
See: 32 N.J.R. 3201(a), 32 N.J.R. 4255(a).

In (a)1, deleted "the record which consists of" preceding "all documents".

6A:12-6.2 Appeals from denial of enrollment

An appeal of any denial of an eligible choice student applicant for enrollment in a choice district may be filed by the parent or legal guardian with the Commissioner in accordance with N.J.A.C. 6:24.

Amended by R.2000 d.477, effective December 4, 2000.
See: 32 N.J.R. 3201(a), 32 N.J.R. 4255(a).

(c) A choice district shall file interim reports and an annual report with the Department on dates set by the Commissioner. A choice district shall submit the reports on a form provided by the Department that includes demographic and student participation information, fiscal and programmatic information, and an update on the number of available openings.

(d) Choice districts shall establish and maintain a parent information center.

1. The center shall assist parents and legal guardians in submitting applications for enrollment of students in an appropriate program and school.

2. All materials available through the regionwide public information program established pursuant to (b) above shall be made available to parents and legal guardians at the parent information center.

Amended by R.2000 d.477, effective December 4, 2000.
See: 32 N.J.R. 3201(a), 32 N.J.R. 4255(a).

In (a), inserted "all" preceding "credits"; rewrote (c); and in (d) substituted "information" for "assistance" preceding "center" in the introductory paragraph.

SUBCHAPTER 7. ADMINISTRATIVE RESPONSIBILITIES OF CHOICE DISTRICTS

Subchapter Historical Note

Subchapter 7, Administrative Responsibilities of Choice Districts, was recodified from Subchapter 4, Administrative Responsibilities of Choice Districts, and Subchapter 7, Choice Program Evaluation, was recodified as Subchapter 10, Choice Program Reports, by R.2000 d.477, effective December 4, 2000. See: 32 N.J.R. 3201(a), 32 N.J.R. 4255(a).

6A:12-7.1 General provisions

(a) Choice districts shall accept all credits toward graduation that were awarded by another district board of education for each choice student it accepts.

1. Choice districts shall award a diploma to a choice student participating in the program if that student meets its graduation requirements and the requirements of the State of New Jersey.

(b) Choice districts shall establish a regionwide public information program which provides information to the public that includes the following:

1. Notification that the district is a choice district;
2. Information regarding student application procedures;
3. Information regarding the district, its schools, its programs, its policies and procedures; and
4. Any other information a choice district deems appropriate.

SUBCHAPTER 8. TRANSPORTATION

Subchapter Historical Note

Subchapter 8, Transportation, was recodified from Subchapter 5, Transportation, by R.2000 d.477, effective December 4, 2000. See: 32 N.J.R. 3201(a), 32 N.J.R. 4255(a).

6A:12-8.1 Student transportation

(a) Each choice district shall have the responsibility for the transportation of enrolled choice students, who are eligible for transportation services both to and from the choice school in which that student is accepted. Each choice district shall provide transportation or aid in lieu of transportation in accordance with N.J.S.A. 18A:36A-3 and N.J.A.C. 6:21-27.

Amended by R.2000 d.477, effective December 4, 2000.
See: 32 N.J.R. 3201(a), 32 N.J.R. 4255(a).

Rewrote the section.

SUBCHAPTER 9. FUNDING

Subchapter Historical Note

Subchapter 9, Funding, was recodified from Subchapter 6, Funding, by R.2000 d.477, effective December 4, 2000. See: 32 N.J.R. 3201(a), 32 N.J.R. 4255(a).

6A:12-9.1 General provisions

(a) Choice students participating in this program shall qualify for State aid pursuant to N.J.S.A. 18A:36B-1 et seq.

(b) The sending district shall maintain fiscal responsibility for any choice student enrolled in or determined to require a private day or residential school.

Amended by R.2000 d.477, effective December 4, 2000.
See: 32 N.J.R. 3201(a), 32 N.J.R. 4255(a).

In (a), changed N.J.S.A. reference; and in (b), inserted "choice" preceding "student enrolled in".

SUBCHAPTER 10. CHOICE PROGRAM REPORTS

Subchapter Historical Note

Subchapter 10, Choice Program Reports, was recodified from Subchapter 7, Choice Program Evaluation, by R.2000 d.477, effective December 4, 2000. See: 32 N.J.R. 3201(a), 32 N.J.R. 4255(a).

6A:12-10.1 Annual report

(a) The Commissioner shall annually report to the State Board of Education and the Legislature on the effectiveness of the choice program. No later than June 30 following the second year of the operation of the program, the report shall include a recommendation on the continuation of the program.

1. N.J.S.A. 18A:36B-1 et seq. requires the State Legislature's Joint Committee on the Public Schools to conduct an evaluation of the program after the first two years. The act requires the Joint Committee to commission an independent study to be conducted by an individual or entity primarily identified with expertise in the field of education.

Amended by R.2000 d.477, effective December 4, 2000.
See: 32 N.J.R. 3201(a), 32 N.J.R. 4255(a).

Rewrote the section.